

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6678

BILL NUMBER: SB 194

NOTE PREPARED: Mar 5, 2004

BILL AMENDED: Mar 4, 2004

SUBJECT: Presumption Concerning Child Sexual Abuse.

FIRST AUTHOR: Sen. Dillon

FIRST SPONSOR: Rep. Orentlicher

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that a child is a child in need of services (CHINS) if the child: (1) lives in the same household as another child who is the victim of certain sex offenses; (2) lives in the same household as the adult who committed the sex offense; (3) needs care, treatment, or rehabilitation that the child is not receiving and that is unlikely to be provided or accepted without the coercive intervention of the court; and (4) has been placed in or has been considered for placement in an informal adjustment program. The bill establishes a rebuttable presumption that a child is a CHINS if: (1) another child in the same household has been the victim of a sex offense; (2) the offense was committed by an adult living in the household; and (3) the offense resulted in the conviction of the adult or a CHINS adjudication concerning the child victim. It provides that a child presumed to be a CHINS may not be taken into custody unless a court finds cause following a hearing.

Effective Date: July 1, 2004.

Explanation of State Expenditures: The bill amends the definition of a Child in Need of Services (CHINS). To the extent that the bill adds a new circumstance under which a child is a CHINS, the bill would increase the number of children who may be declared by a court to be a CHINS. However, the number would be subject to the judgement and actions of the court and the Family and Social Services Administration (FSSA). The bill may increase expenditures for the state. The number of youth that this bill would affect is indeterminable, however, it is likely small. This bill may also result in the caseloads of the county Offices of Family and Children, courts with juvenile jurisdiction, and county prosecutors increasing.

The bill would affect children living in the same household as another child who is the victim of a sex offense. The bill would allow for the child to be determined to be a CHINS provided the following conditions are met:

(1) the child lives in the same household as the adult who committed the sex crime, and the sex crime resulted in a conviction or a judgment;

(2) the child is determined to need care, treatment, or rehabilitation that the child is not currently receiving or is unlikely to be provided or accepted without the coercive intervention of the court; and

(3) a caseworker has determined that a program of informal adjustment or other family and or rehabilitative services is inappropriate for the child.

According to FSSA, there were 972 children who lived in the home of a victim of a substantiated allegation of sexual abuse in FY 2003. Of these 972 children, 125 were made CHINS and 273 had cases opened, leaving 574 for whom services were not provided.

The ultimate determination of a child becoming a CHINS would be based on either (1) the perpetrator's being convicted of sexual abuse of the victim, or (2) a judgement of the court, and (3) administrative action taken by the FSSA. It is likely that the number of children that the bill would affect is small. While the potential population is 574, this population is reduced greatly by the conditions of the bill. The FSSA reports that it is rare for a victim and a perpetrator to remain in the home after abuse has been substantiated. This reduces the potential population. The population is also reduced by the third condition where the caseworker must have determined that a program of informal adjustment or other family and/or rehabilitative services is inappropriate for the child. The number of youth that this bill would affect is indeterminable, however, it is likely to be small.

Currently, when a local office receives a report of allegations of abuse or neglect, they conduct an investigation. If the findings indicate by a preponderance of the evidence that the abuse or neglect did occur, the findings of the investigation will be substantiated. Case services range from offering services to removing a child to substitute care. The current annual cost of a CHINS case is approximately \$14,451 per child which includes the investigations performed as well as services provided. A portion of the costs can also be reimbursed from federal funds in the IV-E program and TANF EA (Emergency Assistance) program if children are eligible.

Explanation of State Revenues:

Explanation of Local Expenditures: *County Offices of Family and Children, Courts with Juvenile Jurisdiction, and County Prosecutors:* The caseloads of the county Offices of Family and Children, courts with juvenile jurisdiction, and county prosecutors may increase. This increase in caseload and associated costs are unknown and contingent upon judicial action. The estimated average cost of providing services for a CHINS for CY 2002 is approximately \$14,451 per year. Out-of-home placements and services to CHINS are primarily funded by the local county Family and Children's Fund. Certain out-of-home placements may be matched with federal IV-E funds, and CHINS are eligible for Medicaid services. (See *Explanation of State Expenditures: Child in Need of Services.*)

Explanation of Local Revenues:

State Agencies Affected: Family and Social Services Administration; Department of Correction.

Local Agencies Affected: Trial courts; local law enforcement agencies; County Offices of Family and Children.

Information Sources: Jane Bisbee, Family and Social Services Administration; Department of Correction.

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